UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF TEXAS SAN ANTONIO DIVISION

T&D KOHLLEPPEL FARMS, INC.,	§	
and TED KOHLLEPPEL,	§	
	§	
Plaintiffs,	§	
v.	§	CIVIL ACTION NO.
	§	
BEXAR, MEDINA, ATASCOSA	§	SA-10-CV-0368 FB (NN)
COUNTIES WATER CONTROL &	§	
IMPROVEMENT DISTRICT NO. ONE;	§	
ED BERGER;	§	
BRIAN SULLIVAN;	§	
WILL CARTER;	§	
TOMMEY FEY; and	§	
RALPH KOHLLEPPEL,	§	
	§	
Defendants.	§	

ORDER DENYING MOTION FOR SHOW CAUSE AND TO COMPEL TESTIMONY OF DANIEL J. KINDRED (DOCKET ENTRY 43)

The matter before the court is the plaintiff's motion for show cause and to compel testimony of Daniel Kindred" (docket entry 43).

The motion concerns the attempted deposition of the District Attorney of Medina County, Daniel Kindred. The deposition was noticed for June 10, 2011. The subpoena reflects service on Kindred.¹ Kindred did not appear for the deposition.²

Plaintiffs filed this motion, serving defendants through counsel, but not Kindred. The motion does not include a certificate reflecting that plaintiffs conferred with either defendants or

¹Docket entry 43, exhibit 14.

²Docket entry 43, exhibit 15.

Kindred prior to filing the motion.

Plaintiffs ask the court to direct Kindred to show cause why he failed to attend his deposition and if he fails, to hold him in contempt, without having served Kindred with the motion and providing him an opportunity to respond to the request for relief. The court declines to consider a motion which has not been served on Kindred and which fails to demonstrate compliance with the requirement to confer "in a good-faith attempt to resolve the matter by agreement" prior to presenting a non-dispositive dispute to the court for resolution.

Accordingly, the motion for show cause and to compel is DENIED.

SIGNED on July 1, 2011.

Mancy Stlin Monak
NANCY STEIN NOWAK

UNITED STATES MAGISTRATE JUDGE

³Local Rule CV 7-(h).